

114TH CONGRESS  
2D SESSION

# H. R. 4619

To strengthen incentives and protections for whistleblowers in the financial industry and related regulatory agencies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2016

Mr. CUMMINGS introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Agriculture and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To strengthen incentives and protections for whistleblowers in the financial industry and related regulatory agencies, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-  
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Whistleblower Aug-  
5 mented Reward and Nonretaliation Act of 2016” or the  
6 “WARN Act of 2016”.

1   **SEC. 2. AMENDMENTS TO THE FINANCIAL INSTITUTIONS**

2                   **ANTI-FRAUD ENFORCEMENT ACT OF 1990.**

3       (a) RIGHTS OF DECLARANTS.—Section 2565(d) of  
4   the Financial Institutions Anti-Fraud Enforcement Act of  
5   1990 (12 U.S.C. 4205(d)(1)(A)) is amended—

6                   (1) in paragraph (1)(A)—

7                      (A) by redesignating clause (ii) as clause  
8                      (iii); and

9                      (B) by striking clause (i) and inserting the  
10                  following:

11                     “(i) Not less than 10 percent, in total,  
12                  of what has been collected in any recovery  
13                  imposed in the action or related actions.

14                     “(ii) Not more than 30 percent, in  
15                  total, of what has been collected in any re-  
16                  covery imposed in the action or related ac-  
17                  tions.”; and

18                   (2) by adding at the end the following new  
19                  paragraph:

20                     “(3) APPEALS.—Any determination regarding  
21                  an award under this section may, within 30 days of  
22                  such determination, be appealed to the appropriate  
23                  court of appeals of the United States.”.

24       (b) PROTECTION FOR DECLARANTS.—The Financial  
25   Institutions Anti-Fraud Enforcement Act of 1990 (12

1 U.S.C. 4212) is amended by striking section 2572 and in-  
2 serting the following:

3 **“SEC. 2572. PROTECTION FOR DECLARANTS.**

4 “(a) REMEDY.—In a civil action, a person may obtain  
5 all relief necessary to make such person whole if such per-  
6 son—

7           “(1) was discharged, demoted, suspended,  
8 threatened, harassed, or in any other manner dis-  
9 criminated against in the terms and conditions of  
10 employment by an employer because of lawful acts  
11 done by the person on behalf of the person or others  
12 in furtherance of a prosecution under section 215,  
13 225, 287, 656, 657, 1001, 1005, 1006, 1007, 1014,  
14 1032, 1341, 1343, 1344, or 1517 of title 18 (includ-  
15 ing provision of information relating to, investigation  
16 for, initiation of, testimony for, or assistance in such  
17 a prosecution); and

18           “(2) did not act without direction from his or  
19 her employer to deliberately cause the violation dis-  
20 closed.

21           “(b) RELIEF.—Relief under subsection (a) shall in-  
22 clude—

23           “(1) reinstatement with the same seniority sta-  
24 tus;

1           “(2) twice the amount of back pay and interest  
2       that the plaintiff would have had but for the dis-  
3       crimination; and

4           “(3) compensation for any special damages sus-  
5       tained as a result of the discrimination, including  
6       litigation costs, expert witness fees, and reasonable  
7       attorneys fees.

8       “(c) BURDENS OF PROOF.—Complaints for relief  
9       shall be governed by the procedures, evidentiary stand-  
10      ards, and burdens of proof in section 1057 of the Dodd-  
11      Frank Wall Street Reform and Consumer Protection Act  
12      (12 U.S.C. 5567).”.

13       (c) EDUCATION.—Section 2573 of the Financial In-  
14      stitutions Anti-Fraud Enforcement Act of 1990 (12  
15      U.S.C. 4213) is amended—

16           (1) by striking “The Attorney General” and in-  
17       serting the following:

18           “(a) IN GENERAL.—The Attorney General”; and

19           (2) by adding at the end the following:

20       “(b) EDUCATION.—The Attorney General shall issue  
21      regulations requiring every employer covered by this Act  
22      to provide education and training to its employees on the  
23      rights and remedies provided under this section, including  
24      through individual notice to its employees, posting infor-

1 mation on its website homepage, and providing mandatory  
2 training for its employees.”.

3 (d) SHARE OF ASSETS.—Section 2580 of the Finan-  
4 cial Institutions Anti-Fraud Enforcement Act of 1990 (12  
5 U.S.C. 4225) is amended by striking subsection (c) and  
6 inserting the following:

7 “(c) SHARE OF ASSETS.—When the United States  
8 recovers any asset or assets specifically identified in a  
9 valid declaration filed under section 4221 of this title and  
10 the Attorney General determines that the asset or assets  
11 would not have been recovered if the declaration had not  
12 been filed, the declarant shall have the right to share in  
13 the recovery in the amount of—

14 “(1) not less than 10 percent, in total, of what  
15 has been collected in any recovery imposed in the ac-  
16 tion or related actions; and

17 “(2) not more than 30 percent, in total, of what  
18 has been collected in any recovery imposed in the ac-  
19 tion or related actions.”.

20 (e) REVIEW OF ACTION BY ATTORNEY GENERAL.—  
21 The Financial Institutions Anti-Fraud Enforcement Act  
22 of 1990 (12 U.S.C. 4228) is amended by striking section  
23 2583 and inserting the following:

1   **“SEC. 2583. REVIEW OF ACTION BY THE ATTORNEY GEN-**  
2                   **ERAL.**

3       “Any determination regarding an award under this  
4   chapter may, within 30 days of such determination, be ap-  
5   pealed to the appropriate court of appeals of the United  
6   States.”.

7   **SEC. 3. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-**  
8                   **ANCE ACT.**

9       (a) EMPLOYEES OF DEPOSITORY INSTITUTIONS AND  
10   BANKING AGENCIES.—Section 33(a) of the Federal De-  
11   posit Insurance Act (12 U.S.C. 1831j(a)) is amended—

12               (1) in paragraph (1)—

13                       (A) in the matter preceding subparagraph  
14                       (A), by striking “provided information” and in-  
15                       serting “provided information, or refused to  
16                       alter information previously provided,”; and

17                       (B) in subparagraph (A), by striking “a  
18                       possible violation of any law or regulation” and  
19                       inserting “a possible violation of any law, regu-  
20                       lation, or agency statement of policy”; and

21               (2) in paragraph (2)—

22                       (A) by striking “the Corporation” and in-  
23                       serting “any such agency or bank”;

24                       (B) by striking “provided information”  
25                       and inserting “provided information, or refused  
26                       to alter information previously provided,”; and

5       (b) REWARD FOR INFORMATION LEADING TO RECOV-  
6   ERIES OR CIVIL PENALTIES.—Section 34 of such Act (12  
7   U.S.C. 1831k) is amended—

(1) by striking subsection (b) and inserting the following:

10        "(b) PERCENTAGE LIMITATION.—An appropriate  
11 Federal banking agency shall pay a reward—

12               “(1) not less than 10 percent, in total, of what  
13        has been collected as any fine, penalty, restitution,  
14        or forfeiture imposed in the action or related ac-  
15        tions; and

16               “(2) not more than 30 percent, in total, of what  
17        has been collected as any fine, penalty, restitution,  
18        or forfeiture imposed in the action or related ac-  
19        tions.”; and

(2) by striking subsection (d) and inserting the following:

22        "(d) REVIEW.—Any determination regarding an  
23 award under this section may, within 30 days of such de-  
24 termination, be appealed to the appropriate court of ap-  
25 peals of the United States.".

1   **SEC. 4. AMENDMENTS TO THE SECURITIES EXCHANGE ACT**

2                   **OF 1934.**

3                 (a) NARROW DEFINITION OF WHISTLEBLOWER RE-  
4   MOVED.—Section 21F(a) of the Securities Exchange Act  
5   of 1934 (15 U.S.C. 78u-6(a)) is amended by striking  
6   paragraph (6).

7                 (b) DELAY.—Section 21F(c)(1)(B) of the Securities  
8   Exchange Act of 1934 (15 U.S.C. 78u-6(c)(1)(B)) is  
9   amended—

10                 (1) in clause (i)(IV), by striking “and” at the  
11   end; and

12                 (2) by adding at the end the following new  
13   clauses:

14                     “(iii) shall not deny eligibility for an  
15   award that otherwise meets the require-  
16   ments of this section if the information  
17   that forms the basis for the award is sub-  
18   mitted within 90 days after knowledge of  
19   disclosed misconduct; and

20                     “(iv) shall presume that reports are  
21   timely and not reduce the award due to  
22   delay, absent a finding of that disclosure  
23   was deliberately postponed either because of  
24   culpability, interference with internal inves-  
25   tigative processes, or attempts at self-en-  
26   richment.”.

1       (c) PROHIBITION AGAINST RETALIATION.—Section  
2 21F(h)(1)(A) of the Securities Exchange Act of 1934 (15  
3 U.S.C. 78u–6(h)(1)(A)) is amended—

4                 (1) in the matter preceding clause (i), by strik-  
5 ing “in the terms and conditions of employment be-  
6 cause of any lawful act done by the whistleblower”  
7 and inserting “with respect to compensation, terms,  
8 conditions, or privileges of employment because of  
9 any lawful act done by the applicant, employee, or  
10 former employee or perceived to have been done by  
11 the applicant, employee, or former employee (or any  
12 person acting pursuant to the request of the appli-  
13 cant, employee, or former employee), whether at the  
14 initiative of the applicant, employee, or former em-  
15 ployee or in the ordinary course of the duties of the  
16 applicant, employee, or former employee”;

17                 (2) in clause (ii) by striking “; or” and insert-  
18 ing a semicolon;

19                 (3) in clause (iii) by striking the period at the  
20 end and inserting a semicolon; and

21                 (4) by adding at the end the following new  
22 clauses:

23                         “(iv) in objecting to, or refusing to  
24 participate in, any activity, policy, practice,  
25 or assigned task the applicant, employee,

1                   or former employee (or other such person)  
2                   reasonably believed to be in violation of  
3                   any law, rule, order, standard, or prohibi-  
4                   tion subject to the jurisdiction of, or en-  
5                   forceable by, the Commission; or

6                   “(v) in providing, preparing to pro-  
7                   vide, or assisting in the provision of infor-  
8                   mation to the employer or a person with  
9                   supervisory authority over the employee (or  
10                  other such person working for the em-  
11                  ployer who has the authority to investigate,  
12                  discover, or terminate misconduct) relating  
13                  to any violation of, or any act or omission  
14                  that the applicant, employee, or former  
15                  employee believes to be a violation of, any  
16                  provision of this title or any other provi-  
17                  sion of law that is subject to the jurisdic-  
18                  tion of the Commission, or any rule, order,  
19                  standard, or prohibition prescribed by the  
20                  Commission.”.

21                 (d) ENFORCEMENT.—Section 21F(h)(1)(B) of the  
22                 Securities Exchange Act of 1934 (15 U.S.C. 78u-  
23                 6(h)(1)(B)) is amended by adding at the end the following  
24                 new clause:

1                     “(iv) BURDENS OF PROOF.—Except  
2                     as otherwise provided in this section, com-  
3                     plaints for relief shall be governed by the  
4                     procedures, evidentiary standards, and  
5                     burdens of proof in section 1057 of the  
6                     Dodd-Frank Wall Street Reform and Con-  
7                     sumer Protection Act (12 U.S.C. 5567).”.

8                 (e) RELIEF.—Section 21F(h)(1)(C) of the Securities  
9                     Exchange Act of 1934 (15 U.S.C. 78u-6(h)(1)(C)) is  
10                  amended—

11                  (1) in clause (ii) by striking “and”;  
12                  (2) in clause (iii) by striking the period at the  
13                  end and inserting a semicolon; and  
14                  (3) by adding at the end the following new  
15                  clauses:

16                  “(iv) compensatory damages; and  
17                  “(v) punitive damages in an amount  
18                  not to exceed \$250,000.”.

19                 (f) CONFIDENTIALITY.—Section 21F(h)(2) of the Se-  
20                     curities Exchange Act of 1934 (15 U.S.C. 78u-6(h)(2))  
21                  is amended by striking subparagraph (A) and inserting  
22                  the following:

23                  “(A) IN GENERAL.—Except as provided in  
24                  subparagraphs (B), (C), and (D) of this sub-  
25                  section, the Commission and any officer or em-

1           ployee of the Commission may not disclose any  
2           identifying information about a whistleblower  
3           who has provided information to the Commis-  
4           sion—

5                 “(i) unless the Commission has ob-  
6                 tained the written consent of the whistle-  
7                 blower;

8                 “(ii) except in accordance with the  
9                 provisions of section 552a of title 5,  
10                 United States Code; or

11                 “(iii) unless required to be disclosed  
12                 to a defendant or respondent in connection  
13                 with a public proceeding instituted by the  
14                 Commission.”.

15         (g) ADDITIONAL PROTECTIONS FOR WHISTLE-  
16 BLOWERS.—Section 21F of the Securities Exchange Act  
17 of 1934 (15 U.S.C. 78u–6) is amended by adding at the  
18 end the following new subsections:

19                 “(k) NON-WAIVERABILITY OF RIGHTS AND REM-  
20 EDIES.—An employer may not take any action to impede  
21 an individual who is about to or has assisted or engaged  
22 in activity protected by this section, including—

23                 “(1) issuing, proposing, initiating, enforcing, or  
24 threatening to enforce, a confidentiality agreement  
25 (other than agreements dealing with information

1 covered by sections 240.21F–4(b)(4)(i) and  
2 240.21F–4(b)(4)(ii) of title 17, Code of Federal  
3 Regulations, as in effect on the date of the enact-  
4 ment of this Act) with respect to such communica-  
5 tions;

6 “(2) initiating, enforcing, or threatening to en-  
7 force, any agreement, policy, form, or condition of  
8 employment, including by any predispute arbitration  
9 agreement, that waives the rights and remedies pro-  
10 vided for in this section;

11 “(3) requiring an individual to waive, release,  
12 or assign any monetary award such individual may  
13 receive from the Commission, or conditioning an in-  
14 dividual’s right to receive any contractual or employ-  
15 ment-related benefit on such a waiver, release, or as-  
16 signment;

17 “(4) requiring an individual to disclose to any  
18 private party whether such individual has, or in the  
19 future intends to, communicate with the Commission  
20 staff about a possible commodities law violation;

21 “(5) conditioning an individual’s right to receive  
22 any contractual or employment-related benefit on a  
23 representation that such individual has not commu-  
24 nicated with, or provided documents or other infor-  
25 mation, to the Commission staff;

1               “(6) seeking civil or criminal liability for ac-  
2       quiring and communicating information to the Com-  
3       mission or other activity protected by this section;

4               “(7) seeking professional discipline through loss  
5       of license, certification, or other disciplinary activi-  
6       ties for engaging in activity protected by this Act;

7               “(8) seeking professional discipline of attorneys  
8       for representation of activities protected by this Act,  
9       or other action that obstructs the whistleblower’s  
10      right to counsel; or

11               “(9) engaging in any other discrimination that  
12       would chill the exercise of activity protected by this  
13       section.

14               “(l) INTERNAL COMPLIANCE PROGRAMS.—The Com-  
15       mission shall issue regulations requiring each employer—

16               “(1) to have a procedure in place for an em-  
17       ployee or former employee to report directly to the  
18       chief executive officer, a representative appointed by  
19       and reporting directly to the chief executive officer  
20       who is specifically designated to receive such a re-  
21       port, or through a hotline consistent with profes-  
22       sional best practices to the audit committee of the  
23       board of directors, if such employee or former em-  
24       ployee believes that violations of this section have oc-

1       curred or are occurring at the place of employment  
2       or place of former employment; and

3               “(2) to not discriminate against an employee or  
4       former employee for such reports.

5        "(m) EXTRATERRITORIALITY.—The protections pro-  
6 vided by this section shall also apply to foreign nationals  
7 living outside the United States.".

## 8 SEC. 5. AMENDMENTS TO THE COMMODITY EXCHANGE

9 ACT.

10 (a) NARROW DEFINITION OF WHISTLEBLOWER RE-  
11 MOVED.—Section 23(a) of the Commodity Exchange Act  
12 (7 U.S.C. 26(a)) is amended by striking paragraph (7).

13           (b) DELAY.—Section 23(c)(1)(B) of the Commodity  
14 Exchange Act (7 U.S.C. 26(c)(1)(B)) is amended—

15                   (1) in clause (i)(IV), by striking “and” at the  
16                  end; and

17                   (2) by adding at the end the following new  
18 clauses:

19                         “(iii) shall not deny eligibility for an  
20                         award that otherwise meets the require-  
21                         ments of this section if the information  
22                         that forms the basis for the award is sub-  
23                         mitted within 90 days after knowledge of  
24                         disclosed misconduct; and

1                         “(iv) shall presume that reports are  
2                         timely and not reduce the award due to  
3                         delay, absent a finding of that disclosure  
4                         was deliberately postponed either because of  
5                         culpability, interference with internal inves-  
6                         tigative processes, or attempts at self-en-  
7                         richment.”.

8                         (c) PROHIBITION AGAINST RETALIATION.—Section  
9                         23(h)(1)(A) of the Commodity Exchange Act (7 U.S.C.  
10                         26(h)(1)(A)) is amended—

11                         (1) by striking “in the terms and conditions of  
12                         employment because of any lawful act done by the  
13                         whistleblower” and inserting “with respect to com-  
14                         pensation, terms, conditions, or privileges of employ-  
15                         ment because of any lawful act done by the appli-  
16                         cant, employee, or former employee or perceived to  
17                         have been done by the applicant, employee, or  
18                         former employee (or any person acting pursuant to  
19                         the request of the applicant, employee, or former  
20                         employee), whether at the initiative of the applicant,  
21                         employee, or former employee or in the ordinary  
22                         course of the duties of the applicant, employee, or  
23                         former employee”;

24                         (2) in clause (i), by striking “; or” and insert-  
25                         ing a semicolon;

1                             (3) in clause (ii), by striking the period at the  
2                             end and inserting a semicolon; and

3                             (4) by inserting the following new clauses:

4                                 “(iii) in objecting to, or refusing to  
5                             participate in, any activity, policy, practice,  
6                             or assigned task the applicant, employee,  
7                             or former employee (or other such person)  
8                             reasonably believed to be in violation of  
9                             any law, rule, order, standard, or prohibi-  
10                             tion subject to the jurisdiction of, or en-  
11                             forceable by, the Commission; or

12                                 “(iv) in providing, preparing to pro-  
13                             vide, or assisting in the provision of infor-  
14                             mation to the employer or a person with  
15                             supervisory authority over the employee (or  
16                             such other person working for the em-  
17                             ployer who has the authority to investigate,  
18                             discover, or terminate misconduct) relating  
19                             to any violation of, or any act or omission  
20                             that the whistleblower believes to be a vio-  
21                             lation of, any provision of this title or any  
22                             other provision of law that is subject to the  
23                             jurisdiction of the Commission, or any  
24                             rule, order, standard, or prohibition pre-  
25                             scribed by the Commission.”.

1       (d) ENFORCEMENT.—Section 23(h)(1)(B) of the  
2 Commodity Exchange Act (7 U.S.C. 26(h)(1)(B)) is  
3 amended by adding at the end the following new clause:

4                 “(iv) BURDENS OF PROOF.—Except  
5                 as otherwise provided in this section, com-  
6                 plaints for relief shall be governed by the  
7                 procedures, evidentiary standards, and  
8                 burdens of proof in section 1057 of the  
9                 Dodd-Frank Wall Street Reform and Con-  
10                 sumer Protection Act (12 U.S.C. 5567).”.

11       (e) RELIEF.—Section 23(h)(1)(C) of the Commodity  
12 Exchange Act (7 U.S.C. 26(h)(1)(C)) is amended—

13                 (1) in clause (ii) by striking “and”;  
14                 (2) in clause (iii) by striking the period at the  
15                 end and inserting a semicolon; and  
16                 (3) by adding at the end the following new  
17                 clauses:

18                 “(iv) compensatory damages; and  
19                 “(v) punitive damages in an amount  
20                 not to exceed \$250,000.”.

21       (f) CONFIDENTIALITY.—Section 23(h)(2) of the  
22 Commodity Exchange Act (7 U.S.C. 26(h)(2)) is amend-  
23 ed—

24                 (1) by striking subparagraph (A) and inserting  
25                 the following:

1                 “(A) IN GENERAL.—Except as provided in  
2                 subparagraphs (B), (C), and (D) of this sub-  
3                 section, the Commission and any officer or em-  
4                 ployee of the Commission may not disclose any  
5                 identifying information about a whistleblower  
6                 who has provided information to the Commis-  
7                 sion—

8                         “(i) unless the Commission has ob-  
9                 tained the written consent of the whistle-  
10                 blower;

11                         “(ii) except in accordance with the  
12                 provisions of section 552a of title 5,  
13                 United States Code; or

14                         “(iii) unless required to be disclosed  
15                 to a defendant or respondent in connection  
16                 with a public proceeding instituted by the  
17                 Commission”; and

18                 (2) by adding at the end the following new sub-  
19                 paragraph:

20                         “(D) EXEMPTED STATUTE.—For purposes  
21                 of section 552 of title 5, United States Code,  
22                 this paragraph shall be considered a statute de-  
23                 scribed in subsection (b)(3)(B) of such section  
24                 552.”.

1       (g) ADDITIONAL PROTECTIONS FOR WHISTLE-  
2 BLOWERS.—Section 23 of the Commodity Exchange Act  
3 (7 U.S.C. 26) is amended by adding at the end the fol-  
4 lowing new subsections:

5       “(o) NON-WAIVERABILITY OF RIGHTS AND REM-  
6 EDIES.—An employer may not take any action to impede  
7 an individual who is about to or has assisted or engaged  
8 in activity protected by this section, including—

9           “(1) issuing, proposing, initiating, enforcing, or  
10 threatening to enforce, a confidentiality agreement  
11 (other than agreements dealing with information  
12 covered by section 165.2(k) of title 17, Code of Fed-  
13 eral Regulations, as in effect on the date of the en-  
14 actment of this Act) with respect to such commu-  
15 nications;

16           “(2) initiating, enforcing, or threatening to en-  
17 force, any agreement, policy, form, or condition of  
18 employment, including by any predispute arbitration  
19 agreement, that waives the rights and remedies pro-  
20 vided for in this section;

21           “(3) requiring an individual to waive, release,  
22 or assign any monetary award such individual may  
23 receive from the Commission, or conditioning an in-  
24 dividual’s right to receive any contractual or employ-

1       ment-related benefit on such a waiver, release, or as-  
2       signment;

3           “(4) requiring an individual to disclose to any  
4       private party whether such individual has, or in the  
5       future intends to, communicate with the Commission  
6       staff about a possible violation of this Act;

7           “(5) conditioning an individual’s right to receive  
8       any contractual or employment-related benefit on a  
9       representation that such individual has not commu-  
10      nicated with, or provided documents or other infor-  
11      mation, to the Commission staff;

12          “(6) seeking civil or criminal liability for ac-  
13      quiring and communicating information to the Com-  
14      mission or other activity protected by this section;

15          “(7) seeking professional discipline through loss  
16      of license, certification or other disciplinary activities  
17      for engaging in activity protected by this Act;

18          “(8) seeking professional discipline of attorneys  
19      for representation of activities protected by this Act,  
20      or other action that obstructs the whistleblower’s  
21      right to counsel; or

22          “(9) engaging in any other discrimination that  
23      would chill the exercise of activity protected by this  
24      section.

1       “(p) INTERNAL COMPLIANCE PROGRAMS.—The  
2 Commission shall issue regulations requiring each em-  
3 ployer—

4           “(1) to have a procedure in place for an em-  
5 ployee or former employee to report directly to the  
6 chief executive officer, a representative appointed by  
7 and reporting directly to the chief executive officer  
8 who is specifically designated to receive such a re-  
9 port, or through a hotline consistent with profes-  
10 sional best practices to the audit committee of the  
11 board of directors, if such employee or former em-  
12 ployee believes that a violation of this section has oc-  
13 curred or is occurring at the place of employment or  
14 place of former employment; and

15           “(2) to not discriminate against an employee or  
16 former employee for such reports.

17       “(q) EXTRATERRITORIALITY.—The protections pro-  
18 vided by this section shall also apply to foreign nationals  
19 living outside the United States.”.

20 **SEC. 6. AMENDMENTS TO THE WHISTLEBLOWER PROTEC-**  
21 **TIONS UNDER THE SARBANES-OXLEY ACT.**

22       Section 1514A of title 18, United States Code, is  
23 amended—

24           (1) in subsection (a)—

- 1                             (A) in the matter preceding paragraph (1),  
2                             by striking “in the terms and conditions of em-  
3                             ployment because of any lawful act done by the  
4                             employee” and inserting “with respect to com-  
5                             pensation, terms, conditions, or privileges of  
6                             employment because of any lawful act done by  
7                             the applicant, employee, or former employee or  
8                             perceived to have been done by the applicant,  
9                             employee, or former employee (or any person  
10                          acting pursuant to the request of the applicant,  
11                          employee, or former employee), whether at the  
12                          initiative of the applicant, employee, or former  
13                          employee or in the ordinary course of the duties  
14                          of the applicant, employee, or former em-  
15                          ployee”;
- 16                          (B) in paragraph (1)(C), by striking “; or”  
17                          and inserting a semicolon;
- 18                          (C) in paragraph (2), by striking the pe-  
19                          riod at the end and inserting a semicolon; and
- 20                          (D) by adding at the end the following:
- 21                          “(3) in objecting to, or refusing to participate  
22                          in, any activity, policy, practice, or assigned task the  
23                          applicant, employee, or former employee (or other  
24                          such person) reasonably believed to be in violation of  
25                          any law, rule, order, standard, or prohibition subject

1 to the jurisdiction of, or enforceable by, the Securities  
2 and Exchange Commission; or

3 “(4) in providing, preparing to provide, or assisting  
4 in the provision of information to the employer or a person with supervisory authority over  
5 the applicant, employee, or former employee (or such  
6 other person working for the employer who has the  
7 authority to investigate, discover, or terminate mis-  
8 conduct) relating to any violation of, or any act or  
9 omission that the whistleblower believes to be a vio-  
10 lation of, any provision of this title or any other pro-  
11 vision of law that is subject to the jurisdiction of the  
12 Securities and Exchange Commission, or any rule,  
13 order, standard, or prohibition prescribed by the  
14 Commission.”;

16 (2) in subsection (c)(2)(B), by inserting “dou-  
17 ble” before “back pay”;

18 (3) in subsection (c), by adding at the end the  
19 following:

20 “(3) PUNITIVE DAMAGES.—Relief for any ac-  
21 tion under paragraph (1) may include punitive dam-  
22 ages in an amount not to exceed \$250,000.”; and

23 (4) by adding at the end the following:

24 “(e) CONFIDENTIALITY.—Neither the Securities and  
25 Exchange Commission, the Secretary of Labor, nor any

1 officer or employee of the Commission or the Secretary  
2 may disclose any identifying information about an em-  
3 ployee of a company described in subsection (a) who has  
4 provided information to the Commission or the Sec-  
5 retary—

6           “(1) unless the Commission or the Secretary  
7        has obtained the written consent of the whistle-  
8        blower;

9           “(2) except in accordance with the provisions of  
10      section 552a of title 5, United States Code; or

11          “(3) unless required to be disclosed to a defend-  
12        ant or respondent in connection with a public pro-  
13        ceeding instituted by the Commission or the Sec-  
14        retary.”.

